

REMARKS

Reconsideration and further examination is respectfully requested.

Claim Rejections – 35 USC §102

The Examiner has rejected claims 42 to 46 and 48 under 35 U.S.C. 102(e) as being anticipated by Paul A. Adao e Silva, US provisional application 60/254,053, filed December 7, 2000. The Examiner has further stated that said claims would be in condition for allowance if the Applicant can swear back of Silva.

The Applicant has submitted a declaration herewith under 37 CFR 131(a) swearing back of the effective date of the Silva reference, December 7, 2000. The Applicant declares:

1. That sometime prior to December 7, 2000, he conceived the invention as currently claimed.
2. That sometime prior to December 7, 2000, he disclosed said invention to Ms. Robbin Frances Juris as evidenced by exhibit A.
3. That sometime prior to December 7, 2000, he recorded a note in his personal notebook describing the essential features of the invention as evidenced by exhibit B.
4. That said note of exhibit B reads "LottaVest – Lottery w/ positive ER".
5. That the phrase "LottaVest – Lottery w/positive ER" means "Lottery Investment – Lottery with positive expected return".
6. That he worked diligently to reduce the invention to constructive practice from sometime prior to December 7, 2000 until January 8, 2001, at which time the invention was constructively reduced to practice by the filing of US provisional patent application serial number 60/260547 entitled "Enhanced Gaming System".
7. That any lapses in diligence between December 7, 2000 and January 8, 2001 were due to the demands of his job. At that time he was the president of The Quaternion Group, Inc. of NY, as evidenced by exhibit C.

Said exhibit A is a declaration by Robbin Frances Juris witnessing to the description to her by the applicant of the features of the invention prior to December 7, 2000.

Said exhibit B is a notation in the Applicant's personal notebook of the essential features of the invention. Said notation was made prior to December 7, 2000.

Said exhibit C is a copy of the 2000 tax return for the Applicant's company, The Quaternion Group. The tax return indicates that the Applicant was the president of said company.

The Silva reference, therefore, is not available under 35 U.S.C 102(e) as prior art. Claims 42 to 46 and 48, therefore, cannot be rejected under 35 U.S.C. 102(e) as being anticipated by Silva.

Allowable Subject Matter

The Examiner has objected to claims 46, 47 and 49 as being dependent upon rejected base claim 42, but stated that said claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicant has overcome the rejection of base claim 42 and all intervening claims. Claims 46, 47 and 49, therefore, cannot be objected to as being dependent upon a rejected base claim.

Specification

The Examiner has objected to the abstract of the disclosure because the abstract does not reflect the currently claimed subject matter.

The Applicant has submitted a replacement abstract herewith that reflects the currently claimed subject matter.

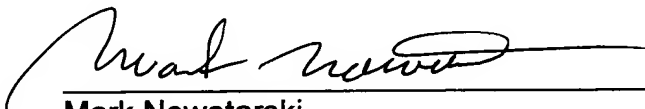
Conclusion

The Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mark Nowotarski, Applicants' Agent at 203 975 7678 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date


Mark Nowotarski
Attorney/Agent for Applicant(s)
Reg. No. 47828

Mark Nowotarski
Patent Agent
30 Glen Terrace
Stamford, CT 06906-1401
Tel. 203 975 7678